COURT NO.2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Income Tax Appeal No. 90 of 2003

Commissioner of Income Tax Dehradun

…Appellant

Versus

M/s Sedco Forex Intl. Drilling In.
C/o A.F. Ferguson & Co., Makers Towers,
4th Floor, Cuffe Parade, Mumbai-400005

……..Respondents.

Dated: February 20, 2006

Mr. S.P. Aggarwal, Advocate for the appellant.

Coram: Hon. P.C. Verma, J.
Hon. B.C. Kandpal, J.

This appeal is against the order dated 25.07.2002, passed by the Income Tax Appellant Tribunal, (Delhi Bench 'B' New Delhi) in ITA No.5653/Del/96. The dispute relates to the Assessment Year 1992-93.

2. The substantial questions of law raised in the appeal are as follows:

> "Whether on the facts and in the circumstances of the case, the learned Tribunal was legally justified in holding that off period salary and free accommodation facility provided by the employer on board the rig in high seas cannot be construed to be perquisite?
>
> "Whether on the facts and in the circumstances of the case, the learned Tribunal was legally correct in holding that no perquisite arose on account of free accommodation facility in charging interest under Section 201/201(1A) of the I.T. Act as amended by Finance Act, 2003"?

3. As the Court has discussed in Income Tax Appeal No.57 of 2002, in the case of *Commissioner of Income Tax and another Vs. Sedco Forex International Drilling Co. Ltd.* decided on 9th October, 2003; the reasoning regarding these questions are given as under:-

In this Case, asseessee had to work on the rig. It was hazardous, arduous and continuous. Under such circumstances, free accommodation, food and beverages is a necessity. It is not a luxury. It is not a perquisite. Therefore, the Department cannot levy interest on the employer under Section 201/201(1-A) of the Income Tax Act.

4. In view of the above discussion, the above questions of law are answered in the affirmative i.e. in favour of the assessee and against the Department.

5. The appeal is dismissed accordingly. No order as to costs.

(B.C. Kandpal, J.) **(P.C. Verma, J.)**

Rajeev Dang